



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/814,540

03/31/2004

Buck A. Pate

P-8242

7410

7590

10/31/2006

John C. Cave
Gunn & Lee, P.C.
Suite 1500
700 N. St. Mary's St.
San Antonio, TX 78205

EXAMINER

FOX, CHARLES A

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/814,540	Applicant(s) PATE, BUCK A.	
	Examiner Charles A. Fox	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20060913</u> . | 6) <input type="checkbox"/> Other: _____ |

Information Disclosure Statement

The information disclosure statement filed September 13, 2006 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information lined through therein has not been considered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The platform is not supported in all directions as claimed in claim 12. In the rejection below the platform is treated as being supported from the corners. Clarification is required. The remainder of claims 13-18 have the same indefiniteness problems as above based upon their dependency.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3652

Claims 1-6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Annin et al. in view of Kozak. Regarding claims 1,2,6 Annin et al. US 2,945,551 teaches a portable elevated platform comprising:

- a portable base (40);
- a frame (41) carried by said base;
- a parallelogram structure (26,27) pivotally connected to said frame;
- a platform structure connected to the top of said parallelogram structure;
- at least one hydraulic extender (56,57) mounted on each lateral side of said parallelogram structure;

wherein said parallelogram structure pivots to a generally horizontal orientation when the extenders are retracted. Annin does not teach a platform for displaying a vehicle thereon. Kozak US 2003/0138309 teaches a device for displaying a vehicle comprising:

- a lift (14);
- a platform support (34) at the top of said lift;
- a platform (70) for holding a vehicle to be display operatively connected to said platform support;

- said operable connection being a turntable (29) for rotating the vehicle platform;

wherein said turntable is geared with bearings such that a motor may drive it. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Annin et al. with a platform as taught by Kozak in order to allow for a dynamic vehicular display that can be used at a plurality of locations.

Art Unit: 3652

Regarding claim 3 Annin et al. also teach the frame is moved within said portable base upon action of said extenders.

Regarding claim 4 Annin et al. further teach a rack and pawl system for locking the sliding frame in place relative to said portable base. While this is not a bolted connection it is functionally equivalent to a pin and hole mechanism and would have been an obvious design choice to one of ordinary skill in the art.

Regarding claim 5 Annin also teaches that said frame (41) has a raised rear member (49) where the parallelogram structure mounts to said frame, wherein said platform is allowed to lower fully upon retraction of the cylinders.

Regarding claim 10 Annin further teaches that the device may be moved to a plurality of locations and used.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Annin et al. and Kozak as applied to claim 1 above, and further in view of Grimaldo. Annin et al. teaches the limitations of claim 1 as above, they do not teach corner leveling devices mounted on their device. Grimaldo US 3,931,895 teaches a portable vehicle display device comprising:

- a lift mechanism for a platform;

- a lower portable frame (11) with wheels (24);

wherein said frame has leveling jacks (29) mounted on the corners thereof. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Annin et al. with levelers as taught by Grimaldo in order to

Art Unit: 3652

maintain the lift device level during use thereof, thereby increasing the safety of those near the device.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Annin et al., Kozak and Grimaldo as applied to claim 7 above, and further in view of Stallbaumer et al. Regarding claim 8 Annin et al., Kozak and Grimaldo teach the limitations of claim 7 as above, they do not teach using outriggers or support cables for the lift platform. Stallbaumer et al. US 5,803,279 teaches a lift device comprising:

- a vehicle for moving said device;

- an extendable boom (38);

- a cable system (20) for supporting said boom in its extended position;

- outriggers (34) for supporting and leveling said vehicle during use of said boom.

It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Annin et al. with outriggers and cables as taught by Stallbaumer et al. in order to provide more stability to the device when the platform is in the raised position.

Regarding claim 9 Annin et al. further teach the portable base having I-beam sides wherein said frame slides within said sides.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grimaldo in view of Kozak. Regarding claim 11 Grimaldo teaches a method of raising a vehicle from the ground comprising:

- moving a portable platform to a desired location;

- driving a vehicle onto said platform when in a lowered position;

Art Unit: 3652

raising a support for said platform to elevate the vehicle;

reversing the preceding steps to remove the vehicle from the platform and move it to another location. Grimaldo does not teach rotating the vehicle on the device.

Kozak teaches a device for displaying a vehicle comprising:

a lift (14);

a platform support (34) at the top of said lift;

a platform (70) for holding a vehicle to be display operatively connected to said platform support;

said operable connection being a turntable (29) for rotating the vehicle platform;

wherein said turntable is geared with bearings such that a motor may drive it. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Grimaldo with a platform as taught by Kozak in order to allow for a dynamic vehicular display that can be used at a plurality of locations.

Regarding claim 12 Grimaldo further teaches supporting the device in a plurality of directions.

Regarding claim 13 Grimaldo further teaches that the raising step comprises separating opposite ends of a parallelogram structure pivotally connected to a frame and the platform.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grimaldo and Kozak as applied to claim 12 above, and further in view of Stallbaumer et al. Grimaldo and Kozak teach the limitations of claim 12 as above as

Art Unit: 3652

well as leveling jacks at the corners of the device, they do not teach using outriggers to stabilize the device. Stallbaumer et al. US 5,803,279 teaches a lift device comprising:

- a vehicle for moving said device;

- an extendable boom (38);

- providing a cable system (20) for supporting said boom in its extended position;

- providing outriggers (34) for supporting and leveling said vehicle during use of said boom. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Grimaldo and Kozak with outriggers and cables as taught by Stallbaumer et al. in order to provide more stability to the device when the platform is in the raised position.

Claims 14,15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grimaldo and Kozak as applied to claim 13 above, and further in view of Annin et al. Grimaldo and Kozak teach the limitations of claim 13 as above they do not teach a sliding frame on the device. Annin et al. teaches a method of lifting a platform comprising:

- providing a portable base structure;

- providing a frame movable within said base structure;

- lifting a platform via a parallelogram linkage connected to said frame;

- wherein said frame is located towards an end of said base during the start of said lift step and towards a middle of said base at an end of said lift step;

- securing said frame to said base when the lifting step is complete;

Art Unit: 3652

wherein said platform may be raised at least 10 feet. It would have been obvious to one of ordinary skill in the art, at the time of invention to modify the steps taught by Grimaldo and Kozak with those taught by Annin et al. in order to positively lock the device when in the raised position, thereby keeping it from collapsing if hydraulic pressure is lost or turned off.

Response to Amendment

The amendments to the claims filed on September 13, 2006 have been entered into the record.

Response to Arguments

Applicant's arguments filed September 13, 2006 regarding the 35 U.S.C. 112 second paragraph rejections of claims 12-18 have been fully considered but they are not persuasive. In order for the platform to be supported in all directions a support must be present in all directions. At a very minimum the platform is not supported from above and as such cannot be supported in all directions.

Regarding the rejection of claim 1 the applicant argues that neither the Annin et al. or Kozak reference teaches a parallelogram structure. The scissors lift shown on the front page by Annin et al. is clearly a parallelogram structure that uses hydraulic cylinders to raise and lower a platform. Further the parallelogram structure does pivot relative to the base structure and as such meets the limitations of the claim. As such while not looking like the instant invention the references in combination teach the limitations as presented in claims 1-10.

Art Unit: 3652

In response to applicant's arguments against the references individually regarding the rejection of claim 11, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Further applicant has not argued that the Kozak reference is not combinable with portable lift taught by Annin et al. since this point has not been argued the applicant has tacitly agreed that the Kozak is properly combined with a portable vehicle lift and as such the arguments are not persuasive.

Regarding the Rejections of claims 16 and 17 the additional supports taught by Stallbaumer are taught as being placed onto the lift device, one of ordinary skill in the art would have been able to place the cables such that they did not interfere with the turntable. The use of outriggers and cables to support a vertically raised object are not considered novel and are well known in many arts. Thereby the claims are finally rejected.

Regarding the rejection of claim 13 the Grimaldo reference teaches the step as claimed by the applicant. Therefore the claim is hereby made final.

Regarding the rejection of claim 14 no specific arguments were made, the claim is hereby made final.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3652


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached between 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3652

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 10.26-06
Charles A. Fox
Examiner
Art Unit 3652